

REMARKS

The Examiner has rejected Claims 1, 3-6, and 10-12 under 35 U.S.C. 102(b), based on the contention that they are anticipated by U.S. Patent No. 3,045,532, issued to Staunton (Staunton '532). Further, the Examiner has rejected Claims 2, and 7-9 under 35 U.S.C. 103(a), based on the contention that one or more of them are unpatentable over Staunton '532, in view of U.S. Patent No. 5,629,804, issued to Tomono (Tomono '804). The Examiner has continued these rejections over Applicant's arguments filed on July 31, 2002. Applicant, however, continues to traverse the Examiner's rejections. Therefore, Applicant submits a further argument herein below, within two months of the mailing of the Examiner's last rejection, and requests that an advisory opinion be issued regarding the same.

The Examiner has stated that, because a counter flank is defined within the present specification as resulting from an apex angle of < 90 degrees, the planes 2-3, and 3-1' of Staunton '532 can both be described as counter flanks. The Examiner, however, has oversimplified the disclosure of the present application. It is true that the specification states that, for the present invention, an apex angle of less than 90 degrees results in a counter flank. But, that definition is still based on the diffraction grating comprising a Littrow grating, as claimed in Claim 1. A grating having the configuration shown in Fig. 2 of Staunton '532 can never comprise a Littrow grating having a single blaze flank and two counter flanks, as claimed in Claim 1.

A Littrow grating comprises a specific grating configuration wherein the incident and diffracted rays are nearly parallel to the blaze normal. Thus, the angle of incidence and the angle of diffraction are approximately the same relative to the blaze normal. Drawing perpendicular lines to any particular blaze flank can approximate this condition. In order to illustrate that the

diffraction grating in Staunton '532 can never have a single blaze flank and two counter flanks when in a Littrow configuration, Applicant has included a magnified picture of Fig. 2 of Staunton '532, having light impinging onto the 1-2 plane in a supposedly-Littrow configuration. As can be seen, the light beams impact that plane perpendicular to the blaze normal, shown as the extended dotted line from that flank, labeled N_B . As can also be seen, at this angle of incidence, the incident light will always impact the 2-3 plane.

Because of the above, the Staunton '532 diffraction grating shown in Fig. 2 of that reference can never be in a Littrow configuration. Since a Littrow configuration requires that the incident and diffracted light be perpendicular to the blaze normal, any attempt to configure Staunton '532 in that way would lead to both the 1-2 and 2-3 planes being exposed to incident light. Further, since the blaze angles of both planes are different, the incident light would always be diffracted at a different angle with respect to at least one plane. Thus, as explained in Staunton '532 itself, the diffraction grating disclosed therein is properly an echelette-type grating with a "working surface" (i.e. light impacting) with "two distinct and individual planes 1-2 and 2-3." (Col. 3, Lines 23-24).

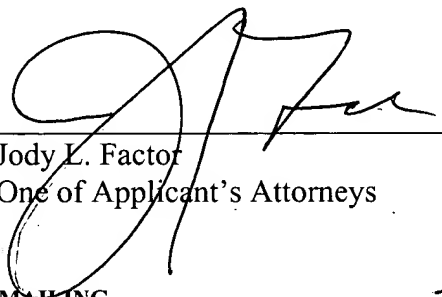
Based on the above, Applicant submits that the diffraction grating in Staunton '532 can never comprise a single blaze flank and two adjacent counter-flanks in a Littrow configuration, as claimed in Claim 1. Thus, Claim 1 is not taught, disclosed or even suggested in Staunton '532. Further, the remaining claims of the application, namely Claims 2-12, all depend from Claim 1, and, as such, contain all of the limitations of that Claim. Therefore, reconsideration and passage to allowance of Claims 1-12, is respectfully requested.

Should anything further be required, a telephone call to the undersigned at (312) 226-1818 is respectfully solicited.

Respectfully submitted,

FACTOR & PARTNERS, LLC

Dated: December 23, 2002



Jody L. Factor
One of Applicant's Attorneys

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Patent Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on December 23, 2002.

Jody L. Factor

Name of Applicant, assignee, applicant's attorney or Registered Representative



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